

REMARKS

This Response is in reply to the Office Action mailed on June 20, 2008. Applicants submit that the present response is being timely filed and that no extension of time is required.

Claims 1 - 12

Examiner has objected to claims 2 – 4 and 6 – 8 because of certain informalities in the claims. Applicants have amended claims 2, 3, 4, and 8 to correct the informalities. Because Examiner has indicated that claims 1 – 12 contain allowable subject matter, Applicants request allowance of claims 1 – 12.

Claims 13 and 14

I. 35 USC § 101 – Statutory Subject Matter

Examiner has rejected claims 13 and 14 as being directed to nonfunctional descriptive material which is nonstatutory subject matter under 35 USC § 101. Applicants respectfully disagree and show the following:

a) Functional Descriptive Material

Applicants assert that claims 13 and 14 (both pre- and post-amendment) are directed to functional descriptive material. MPEP § 2106.01 (Rev. 6) defines functional descriptive material as “consist[ing] of data structures and computer programs which impart functionality when employed as a computer component.” (emphasis added.) By contrast, nonfunctional descriptive material provides no functionality and includes “music, literary works, and a compilation or mere arrangement of data.”

Applicants’ grading masks comprise digital files which impart functionality when used by a computer during the grading process. That is, a computer system equipped with grading software can utilize the grading masks during the garment design process. It is clear from Applicants’ specification that grading software can utilize the grading masks in this

manner. *See* Specification, p. 6, lines 13 – 18: “[T]he grading method of the invention can be implemented by means of a computer system equipped . . . with grading software.” *See generally*, Specification, p. 6, line 13 – p. 9, line 23 describing the entire process by which an individual can utilize the grading masks (in conjunction with grading software) to perform the grading process. Thus, Applicants’ grading masks undoubtedly serve a functional purpose during the grading process.

Further, Applicants’ grading masks comprise images, grading regions, characteristic points, grading formulae (including magnitudes of a scale of measurements, increment values, grading directions, and displacement vectors), special grading regions, and constraints. *See* Specification, p. 6, line 20 – p. 7, line 4; p. 11, lines 27 – 29. Such grading masks are more than a mere collection or arrangement of data because, as described above, the grading masks impart functionality during the grading process. That is, a person can use the grading masks (with the aid of grading software) to grade garments. Thus, Applicants respectfully assert that claims 13 and 14 are directed to functional descriptive material.

b) Stored in a Computer-Readable Medium

Applicants have amended claims 13 and 14 to clarify that they are not claiming descriptive material *per se*. MPEP § 2106.01 (Rev. 6) states that “[w]hen functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be utilized.” As amended, claims 13 and 14 recite grading masks which comprise digital files and are stored in a computer-readable medium. Thus, Applicants assert that the amended claim language clearly shows that Applicants are not claiming descriptive material *per se*.

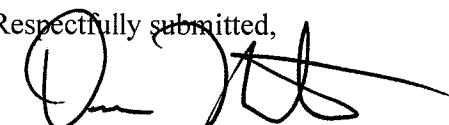
II. 35 USC § 112 – Definiteness

Examiner has rejected claims 13 and 14 as being indefinite under 35 USC § 112. Applicants respectfully disagree but have amended claims 13 and 14 to clarify that the set of grading masks of claims 13 and 14 comprise digital files stored in a computer-readable

medium. Applicants assert that this claim language particularly points out the subject matter which Applicants regard as their invention, as required by 35 USC § 112.

Accordingly, Applicants respectfully request allowance of claims 1 – 14, as amended. If an additional extension of time under 37 C.F.R. §1.136 is necessary that is not accounted for in the papers filed herewith, such an extension is requested.

Respectfully submitted,



Dana T. Hustins
Reg. No. 62,069

Dated: September 9, 2008
SMITH, GAMBRELL & RUSSELL, LLP
1230 Peachtree Street, N.E.
Suite 3100, Promenade II
Atlanta, GA 30309-3592
TEL: (404) 815-3564
FAX: (404) 685-6864